

Memorandum 91-46

Subject: Study L-3054 - Account of Guardian or Conservator

Two technical problems in the provisions on accounts of a guardian or conservator have come to the staff's attention:

(1) Two sections on compelling an account of a conservator overlap: Section 2629 is a general section that applies both to guardians and conservators and is similar to the section for personal representatives. Section 2620.2 has a special rule for a biennial account of a conservator (but not a guardian), and does not apply to other accounts, such as the one required on removal of the guardian or conservator. Section 2620.2 was enacted in a 1989 bill by Senator Henry Mello.

(2) Subdivision (c) of Probate Code Section 2256 seems too narrow. It provides that accounts of a temporary guardian or conservator are "subject to Sections 2621 to 2626, inclusive, Sections 2630 to 2633, inclusive, and Sections 2640 to 2642, inclusive." The subdivision should be broadened to refer to "Article 3 (commencing with Section 2620) of Chapter 7, Article 4 (commencing with Section 2630) of Chapter 7, and Chapter 8 (commencing with Section 2640)." This would pick up provisions concerning status report on the conservatee, compelling accounts, permitting a ward reaching majority to settle accounts with the guardian, permitting the court to dispense with an account in a small estate, permitting periodic payments of compensation, and permitting attorneys' contingent fee contracts.

The staff pointed out these problems to Senator Mello's staff, which in turn referred them to the conservatorship working group in the Judicial Council for review and comment. If the conservatorship working group approves, Senator Mello may include these technical changes in one of his 1992 bills without the need for action by the Law Revision Commission. The staff believes this is a good approach, and would do nothing further about these matters for the present.

Respectfully submitted,

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